Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of)
PETITION FOR WAIVER OF) CG Docket No. 05-231
REGISTRATION AND)
CERTIFICATION REQUIREMENT OF)
CLOSED CAPTIONING RULES)
)

COMMENTS OF THE SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

I. INTRODUCTION

The Sacramento Metropolitan Cable Television Commission (SMCTC)¹ files these comments in support of the Alliance for Community Media's Petition to Waive the Registration and Certification Requirement of the Closed Captioning Rules that are the subject of this proceeding. SMCTC strongly supports exempting public, educational and governmental (PEG) programmers from the registration or certification under the FCC's recently adopted closed captioning rules. Requiring schools, non-profit groups and other public entities that provide programming for use on SMCTC's PEG channels is a waste of time, effort and resources given that all PEG programming is clearly exempt from the closed captioning requirements. These

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¹ The Sacramento Metropolitan Cable Television Commission is a California joint powers agency whose member agencies are the County of Sacramento and the cities of Citrus Heights, Folsom, Elk Grove, Galt, Rancho Cordova and Sacramento.

scarce resources would be better spent on other endeavors, including voluntarily providing closed captioning on these channels for the direct benefit of the community.

II. **BACKGROUND**

The Federal Communications Commission published a Final Rule² in the Federal Register on August 23, 2016, imposing new reporting requirements on PEG access programming with respect to the closed captioning of video programming on television. These obligations include:

- 1) New requirements to certify compliance with or exemption from the FCC's closed captioning rules;
- 2) Introduction of a "burden-shifting" model for the resolution of complaints about closed captioning; and
- 3) Introduction of a new "Video Programmer Registration" system in which PEG access stations will have to provide contact information into the FCC's website.

The Alliance for Community Media, the national association of PEG programmers and stations, filed a Petition for Waiver from the new reporting rules for all PEG access programmers.³ The waiver being sought for video programming producers would exempt programmers that are not PEG access stations from both the compliance certification and the registration requirement.

The petition for waiver does not seek to change compliance certification and registration requirements for PEG access stations, a rather this petition is seeking an exemption for those who

² Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking [CG Docket No. 05-231; FCC 16-17] ("Final Rule").

³ Petition for Waiver of Registration and Certification Requirement, Alliance for Community Media ("ACM") (Filed August 25, 2016). Specifically, ACM is seeking waiver of 47 CFR 79.1(m), to be discussed infra.

⁴ Id., at 2. "We do not dispute the usefulness of registration and certification of exemption status for PEG channels as put forth by the Order. ACM believes this will provide consumers useful and necessary information and will speed the resolution of complaints to Video Program Distributors (VPDs) and the Commission. However, the

produce video programming for such stations. As was expressed in a previous letter filed by ACM in March 2016, the absence of an exception for programmers "could mean tens of thousands of ordinary citizens and organizations - Cub Scouts, gospel choirs, political candidates, and community groups of every possible stripe – will be required to certify to the Commission on a yearly basis that their programming is exempt due to their distribution on exempt PEG channels."5

III. PEG PROGRAMMERS SHOULD BE EXEMPT

SMCTC supports this request as all PEG programming on its channels would be exempt from the closed captioning requirements and requiring PEG programmers to register is unnecessary as SMCTC and/or its channel licenses presumably will be registering and filing exemption certifications.

Federal regulations governing cable television largely divide the world into video programming distributors (VPDs) and video programmers. PEG access stations are video programmers, not VPDs. Programming owners are defined as entities that either license programming to a distributor, or act as a distributor in licensing video programming intended for households.

So while PEG access programmers are generally not considered VPDs, these new regulations are being imposed upon PEG access stations either in their existing role as video programmers, or in their role as program owners. Either way the PEG access channels will register as exempt entities. Therefore, absent a waiver for video programmers, many thousands

registration and certification of these video program owners – most of whom are non-professionals and average citizens who merely wish to use PEG access channels in their communities – is needless if they are distributing programs on channels that are exempt from captioning under the Commission's rules, as many PEG channels are." The Alliance for Community Media, in a March 28, 2016, letter to the FCC, at

https://ecfsapi.fcc.gov/file/60001560855.pdf.

of entities offering programming on public and governmental access stations will also be required to register with the FCC with the identical exemption.

SMCTC's experience in this area is illustrative. SMCTC provides seven PEG channels within its jurisdiction: one governmental channel operated by SMCTC and six public and educational channels that are licensed or contracted to various non-profits and community groups for operation. On the governmental channel, SMCTC cablecasts the public meetings of its member agencies' various councils, boards and commissions. It similarly cablecasts content produced by these agencies for the public's benefit. For the public and educational channels, SMCTC has licensed operation of these channels to various non-profits and community groups. For example, a local non-profit, Access Sacramento, operates two channels providing public access content. Similarly, two channels are licensed to a consortium of local educational agencies for educational content. While these channels have and continue to work towards providing closed captioning, it is undisputed that all of these channels are exempt from doing so under 47 C.F.R. 79.1(d).

While SMCTC believes that any registration or certification under the FCC's closed captioning rules is not necessary for itself or its channel licensees, it is even more unnecessary for the underlying PEG programmers. This is not an idle concern. As the chart below reflects,

⁶ See http://www.accesssacramento.org/program schedules/.

⁷ http://www.secctv.org/.

⁸ See 47 C.F.R. 79.1(d) provides that to be exempt from closed captioning "...any video programming or video programming provider [must] ... meet... one or more of the following criteria...:

⁽¹²⁾ Channels/Streams producing revenues of under \$3,000,000. No video programming provider shall be required to expend any money to caption any channel or stream of video programming producing annual gross revenues of less than \$3,000,000 during the previous calendar year other than the obligation to pass through video programming closed captioned when received pursuant to paragraph (c) of this section. For the purposes of this paragraph, each programming stream on a multicast digital television channel shall be considered separately for purposes of the \$3,000,000 revenue limit.

⁽¹³⁾ Locally produced educational programming. Instructional programming that is locally produced by public television stations for use in grades K-12 and post-secondary schools.

in 2016, countless separate and independent programmers have offered thousands of hours of programming on the community's channels as follows:

Channel	Hours of Programming
7	8,181
14	669.16
15 & 16	17,100
17	7,457
18	18,052
20	2,340

Requiring community members, such as independent producers, non-profit organizations, and other municipal entities, who use SMCTC's channels to register with the FCC and certify that they are exempt from captioning requirements would be cumbersome, a deterrent to many producers who use the channels, and a retarding factor to the established congressional intent of creating PEG channels. While SMCTC appreciates the consumer feedback the registration process will generate, SMCTC believes that this feedback will be facilitated by the registration of the PEG access channels. As such, registering PEG access producers on exempt channels will not help consumers.

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V. CONCLUSION

Nothing in these comments should be read as SMCTC opposing closed captioning. SMCTC is aggressively moving to voluntarily caption programming on its PEG channels. The resources required to register every single programmer on our PEG channels and have them certify they are entitled to the Commission's exemptions from captioning would take away assets that might otherwise be used to expand captioning efforts. For these reasons, SMCTC supports the ACM Petition and calls for the Commission to take prompt action to clarify the Final Rule.

February 9, 2017

Respectfully submitted,

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⁹ For example, SMCTC has provided closed captioning on its governmental channel since 2006.